

# PEDLEY ZIELKE GORDINIER & PENCE, PLLC

ATTORNEYS AT LAW

February 19, 2007

Rolando Bascumbe  
Associate Regional Counsel  
Region 4  
Environmental Protection Agency  
61 Forsyth Street, SW  
Atlanta, GA 30303-8960

Re: Louisville & Jefferson County Metropolitan Sewer District  
v. USEPA and Hofgesang Foundation, U.S. District Court  
Western District of Kentucky, CASE NO: 3:07-CV-5-S

Dear Mr. Bascumbe:

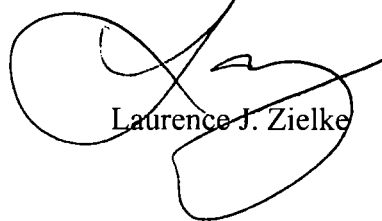
As we discussed last week, the Louisville & Jefferson County Metropolitan Sewer District ("MSD") will voluntarily dismiss the United States Environmental Protection Agency from the above referenced case. We will file to do so today.

In return, you will forward to me the administrative order regarding MSD and the Lees Lane Landfill.

You asked me to provide to you the name of the EPA person contacted MSD regarding performing a rebuild of the gas collection system at the site. That person is Mr. Akindele. I do not have his first name. He evidently does not know that MSD's responsibilities regarding Lees Lane are very limited and laid out in an agreement.

I appreciate your review of these issues.

Sincerely,



Laurence J. Zielke



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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION  
CASE NO: 3:07-CV-5-S**

**LOUISVILLE AND JEFFERSON COUNTY  
METROPOLITAN SEWER DISTRICT**

**PLAINTIFF**

**v.**

**HOFGESANG FOUNDATION, INC.**

**DEFENDANTS**

**And**

**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY**

**VOLUNTARY DISMISSAL OF THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY PURSUANT TO FRCP 41(a)(1)**

The Louisville and Jefferson County Metropolitan Sewer District (hereinafter "MSD"), by and through the undersigned counsel, hereby voluntarily dismisses all claims against the United States Environmental Protection Agency pursuant to Federal Rule of Civil Procedure 41(a)(1). Rule 41 allows the plaintiff to dismiss an adverse party without order of court at any time before service of an answer. This dismissal is without prejudice and is filed before the United States Environmental Protection Agency has filed an answer. The claims against the Hofgesang Foundation, Inc., have not been dismissed.

Respectfully submitted,

s/Laurence J. Zielke

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**CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED that a true copy of the foregoing has been delivered by the ECF filing system and sent first-class mail this 19th day of February, 2007, to:

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s/Laurence J. Zielke  
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